

# Connecting the Parts

## Language Access Task Force and Court System Work to Guarantee Access to Justice

**A**ccess to Justice—it's a phrase we all use to describe efforts to improve the court system, to identify a basic civil right, to criticize lapses in the system. But what does it mean? It means being able to have one's case or claim heard in the courts before fair, impartial judges. But it means more than just getting in the courthouse door. Access to justice means that litigants can understand and fully participate in their business before the court. And access to justice is denied when litigants cannot understand what's happening because they do not understand or fluently speak, or speak at all, the language of the court—namely English.

Without effective language services, individuals with limited English proficiency, as well as individuals who are deaf or hearing impaired, are vulnerable not only in the community, but also in court. This is unacceptable, for it is a barrier to justice—access denied.

In Philadelphia, substantial measures have been taken to ensure that language differences and limited English proficiency ("LEP") do not block access to justice. Great progress has been made, but more work remains.

### SANDRA'S CASE

Sandra's case is an unfortunate, but all too common, experience. It illustrates exactly how language barriers can block access to justice. In early 2005, Sandra attended a spousal support hearing in Family Court pro se. Sandra does not speak English very well and did not know that she could have and should have requested an Arabic interpreter prior to the hearing. No one at the court informed her of the availability of, or her right to, such an interpreter.

At the hearing, Sandra was asked to explain why she had left the marital home. She did not understand the question and

gave an unresponsive answer. Her failure to explain the reasons she left the marital home was critical because, in order to award spousal support, the court would have to find that Sandra had not abandoned the marriage. Later in the hearing, Sandra began to understand the issue and attempted to explain, but because it was not the appropri-



© D.M. Grefenstages.com

ate time for her testimony she was not allowed to augment her earlier testimony. Consequently, her reasons for leaving the marital residence were not included in the court's findings, and the court denied her request for spousal support. Sandra subsequently sought legal representation at a public interest agency and her attorney filed exceptions to the court's initial findings.

The problem here could have been avoided if Sandra had been aware of, or been made aware of, her right to have an interpreter at the hearing. Sandra's case, unfortunately, was not unique or unusual in the

Philadelphia courts prior to 2005. Interpreter services just were not the first priority of busy courts trying to deal with a huge number of cases, especially in non-criminal matters. Fortunately, that has changed.

### A COOPERATIVE EFFORT

The story described above occurred in early 2005. It would be unlikely for Sandra's case to proceed without an interpreter today. This is due primarily to the First Judicial District's efforts, under the able leadership of immediate-past President Judge Frederica Massiah-Jackson, to increase the availability of, accessibility to and awareness of interpreter services—efforts in which the court

system has been joined by the Philadelphia Bar Association's Language Access Task Force. Established by immediate-past Chancellor Andrew Chirls and chaired by Shira Goodman, the Language Access Task Force is comprised of members of the judiciary, court administrators and lawyers representing the criminal defense bar, the prosecutor's office, public interest organizations and frequent litigators in our courts, including Community Legal Services, the Disabilities Law Project, Friends of Farmworkers, Philadelphia Legal Assistance and Women Against Abuse.

A unique feature of the Language Access Task Force is the wide spectrum of litigants its members represent. In addition to prosecutors and public defenders, family law practitioners, landlord-tenant

activists, farmworker rights attorneys and community organizers participate in the Task Force. In addition, the Task Force also deals with issues faced by the deaf or hearing impaired. Mark Murphy of the Disabilities Law Project put it best when he noted that the Task Force really addresses a broad access to justice problem. Murphy found the Task Force afforded one of the first opportunities to partner with others in the bar and the court system to address a problem afflicting not only those who speak languages other than English but also those whose language ability is impaired due to a

disability. The ability of the Task Force to address the rights and needs of so many litigants is evidence of the continuing need for partnerships with the court and among the bar.

In frank, open meetings of the Task Force, the court, through its judges and administrators, has presented its efforts to improve access to interpreter services. The bar, in turn, has identified where these efforts have been successful and where more work is needed. Most striking about these conversations is that the focus has been on *finding solutions* to a frequently occurring issue. These meetings do not devolve into blame-placing or simple complaining. Instead, the Task Force works as a team with a shared desire to find workable solutions to improve access to justice for all.

#### PROGRESS IN THE COURTS

Philadelphia already has been a leader in the Commonwealth in addressing language access issues. Under the able direction of Janet Eas, the First Judicial District has developed a thorough process for identifying the cases in which interpreter services will be required and directing services to those who need them. When issues have been raised about how such cases may be identified even earlier, both the court system and the affected members of the bar have worked together to propose changes to the existing procedures. In addition, in advance of the implementation of a statewide interpreter certification program by the Administrative Office of Pennsylvania Courts (which is awaiting passage of legislation in the General Assembly), Philadelphia has adopted a process for determining which interpreters are qualified to be interpreting in the courts and ensuring that only those interpreters are being used.

Moreover, the court system is increasingly aware that providing interpreters to individuals with limited English proficiency helps everyone involved. Signs posted at court entrances and in waiting areas direct LEP individuals to request an interpreter. Court officers routinely screen for language issues. Orders are written in English and Spanish when necessary.

#### POSTSCRIPT TO SANDRA'S CASE

We are happy to report that Sandra's faith in the court system has been restored. She recently returned to Family Court for another spousal support hearing. An Arabic interpreter was present, and Sandra was able to understand the proceedings and testify fully. Ultimately, she prevailed in her case. Noting the history of the case, the presiding judge asked, "What would happen if you did not have an interpreter?" Sandra replied, "When I do not understand, I do not answer." In that single sentence, Sandra eloquently but simply defined the problem the Task Force was created to resolve.

#### CONCLUSION

With the existence of the Language Access Task Force, the Philadelphia Bar Association has propelled Philadelphia even further ahead as a leader in the Commonwealth. Continuing the Philadelphia Bar Association's tradition of bringing the bar and the court together in cooperative efforts to improve the justice system, the Language Access Task Force has become an important resource for all concerned parties to work to further improve access to justice for all who come to court. The Bar Association must continue to play this vital role of connecting these parts together. ■

*Shira J. Goodman is the associate director of Pennsylvanians for Modern Courts and the chair of the Bar Association's Language Access Task Force. Deborah L. Calhane is a staff attorney for the Immigrant Women's Domestic Violence Project at Women Against Abuse, Inc. and a member of the Task Force.*

#### HOW TO ORDER AN INTERPRETER

For Spanish, call the interpreter office for the court in which your case will be heard:

Criminal Justice Center, Common Pleas Criminal Division and Municipal Court Criminal Division:  
215-683-7093

Family Court, Juvenile Division: 215-686-4279

Family Court, Domestic Relations Branch: 215-686-3513

For languages other than Spanish, and sign language, call Court Reporter and Interpreter Services:  
215-683-8000

#### TIPS FOR SUCCESS

■ Give the court at least 24 hours' advance notice whenever possible. (Less frequently encountered languages and sign interpreters require at least one week's notice.)

■ Provide the name of the language needed and the country or region of origin of the speaker.

■ For sign language, indicate whether the signer knows American Sign Language, another language, or was home-schooled.

■ If an interpreter is needed but has not been ordered in advance, ask the court officer to call a telephonic interpreter service. Then, a conference call should be held, with the interpreter interpreting for the litigant, to explain the need to reschedule the court date and to set another date. Interpreter services should be secured in advance for the new date.

■ If a case will not proceed as scheduled, cancel the interpreter by contacting the Court at least 24 hours in advance if possible. Sign interpreters should be cancelled at least 48 hours in advance if possible.

■ When the case will require the use of an interpreter, whether for another language or for sign language, it is helpful to provide the interpreters with a list of the witnesses' names as well as technical words or terms that may be used frequently. This will ensure proper translation and signing.

■ The Bar Association has created a special fund to help defray the costs of interpreter services for lawyers who need the services of a sign language interpreter to communicate with their clients. Call the Bar Association for details and application information. 215-238-6300.